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FILED

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RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S. J.

C/D RMW

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

J & J SPORTS PRODUCTIONS, INC.,

Plaintiff,

vs.

**PAMELA M. TEJADA AND RICARDO R.
TEJADA, INDIVIDUALLY AND D/B/A
KADOK'S HOUSE OF MAMI-SIOPAO &
BBQ,**

Defendants.

CASE No. C08 00322 RMW

**DECLARATION OF RODEL E. RODIS
RE ORDER TO SHOW CAUSE WHY
DEFAULT SHOULD NOT BE ENTERED**

DATE: 09/05/08

TIME: 9:00 AM

JUDGE: Hon. Ronald M. Whyte

I, Rodel E. Rodis, hereby declare as follows:

1. I am an attorney duly admitted to practice before this Court and I am representing the Defendants in this case. I am familiar with the pleadings, correspondence and proceedings between the parties and have personal knowledge of all of the facts set forth herein. If called as a witness, I could and would competently testify thereto.

2. I filed my clients' answers to the complaint on May 15, 2008. On or about May 17, 2008, I signed a Joint Case Management Conference Statement prepared by plaintiff's counsel, Thomas P. Riley. I did not have the CMC scheduled in my calendar as I thought that the CMC joint statement would be sufficient and that the CMC would be reset so that I would have more time to understand

DECLARATION OF RODEL E. RODIS
RE O.S.C. FOR FAILURE TO APPEAR

1 the case.

2 3. I received notice about the hearing set for July 25, 2008, at 10:30 a.m. which I thought was
3 the continued CMC hearing. I had a previously scheduled family law hearing in the San Mateo
4 Superior Court in Redwood City for that same morning at 9:00 AM (*Marriage of Marcos* Case No.
5 FAM098647). As I have no associates, I had to appear in the two courts on the same morning but at
6 different times. I believed there was sufficient time to do both hearings.
7

8 4. On July 25, 2008, I arrived in Redwood City at 9:00 a.m. and appeared in Court before
9 Judge Susan Etezadi in Department 18. I fully expected the hearing to be over by 9:45 AM which
10 would leave me enough time to drive over to San Jose to attend (what I thought was) the CMC in
11 federal court by 10:30 AM. Unfortunately, the hearing took longer than I had expected. Because I
12 feared I would be late for the CMC in San Jose, I then called my secretary, Melissa Burks, to call the
13 federal court clerk of Judge Ronald Whyte to inform the court that I would be late in arriving there
14 from Redwood City.
15

16 5. Melissa informed me that she called the clerk of the Court several times before 10:00 a.m.
17 and since no one was picking up the phone on the other line, she just left a voice message. She then
18 informed me that she was not able to get through to Judge Whyte's court clerk. I then called the law
19 office of Thomas Riley in South Pasadena and the office secretary informed me that he was out of
20 town. I told her that I knew he was in San Jose and I wanted to reach him to tell him that I would be
21 late. The secretary told me that she would call Mr. Riley through his cell phone and relay my
22 message to him and my request that he call me at my cell phone number which I gave her.
23


24 6. When my Redwood City family law matter was completed by 10:45 AM, I then drove to
25 San Jose as fast as I could. Sometime around 11:25 AM, as I neared the San Jose courthouse, I
26 received a call from Mr. Riley informing me that the matter was over and that the court was upset
27 that I did not appear for the hearing. He said that I would receive a notice of an OSC hearing. I then
28

1 drove back to San Francisco.

2 7. On my way back to San Francisco, Melissa called to inform me that the court clerk of
3 Judge Whyte, Ms. Jackie Garcia, had returned her call informing her that the CMC was over and that
4 the Court had issued an order to show cause for my failure to appear at the CMC.

5 8. I did not willfully intend to not appear at either the MSC that was held on May 25, 2008 or
6 the MSC that was set for July 25, 2008. I have never engaged in and will never engage in willful
7 violations of court rules, contumacious conduct or intentional delays. Both failures to appear referred
8 to in the Order to Show Cause were a result of mistaken assumptions and unfortunate and unforeseen
9 circumstances. I intend to take corrective action to make sure that it will not happen again.
10

11 I declare under penalty of perjury under the laws of the State of California that the foregoing
12 is true and correct. This Declaration was executed on August 8, 2008, at San Francisco, California.
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15 **RODEL E. RODIS**
16 Attorney for Defendants
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PROOF OF SERVICE

The undersigned is a US citizen and employed in the city and county of San Francisco, California and is a person of such age and discretion as to be competent to serve papers. The undersigned further certifies that she is causing a copy of:

**DECLARATION OF RODEL E. RODIS RE: ORDER TO SHOW CAUSE WHY
DEFAULT SHOULD NOT BE ENTERED**

to be served on the below date to the party (ies) in this action, by placing a true copy thereof, addressed as follows:

THOMAS P. RILEY, ESQ.
First Library Square
1114 Fremont Avenue
South Pasadena, CA 91030
(626) 799-9795

 X (By Mail), I caused such copy to be delivered by mail to the person or offices of each addressee above.

 X (By Fax), I caused such copy to be transmitted through fax to the person or offices of each addressee above.

 (By Courier), I caused such copy to be personally delivered to the person or offices of each addressee above.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: August 15, 2008.



Melissa A. Burks